

Annotated Teacher CBA Compliance Rubric

What is this?

- IEERB staff has developed this annotated rubric to help the parties understand more about the compliance process.

Who is this for?

- All stakeholders, as well as compliance officers.

How to use?

- We suggest that you take a proposed CBA and go through this annotated rubric to ensure compliance prior to settling and ratifying a CBA.

What is the scope of review?

- The review is based on the CBA and any MOUs provided to IEERB by the parties.
- This review does not include (1) an evaluation of deficit financing; (2) an evaluation of whether the health insurance plan is compliant with IC Ch. 20-26-17 (HEA 1260-2011); (3) an evaluation of compliance with IC § 20-28-9-11; or (4) an exhaustive review of whether any provision of the CBA conflicts with any state or federal right, benefit, or law.

Can IEERB provide an informal review of my proposed CBA?

- We understand that this is a new process and that there are many questions, which is why we have created both this annotated rubric and the accompanying Handbook. Unfortunately, time and staffing restraints will not allow IEERB to provide an informal review of a proposed CBA.

Are there other resources on compliance?

- All resources found at www.in.gov/ieerb
 - IEERB Handbook on CBA Compliance
 - IC Ch. 20-29-6
 - 560 I.A.C. 2 (Emergency rules)
 - Model compensation plan

	OVERVIEW	EXPLANATIONS/EXAMPLES	INCLUDED?	IF INCLUDED, COMPLIANT?
REQUIRED PROVISIONS			If no, automatically not compliant	
Parties	School employer	<ul style="list-style-type: none"> For example, IEERB School Corporation 		
	Exclusive Representative	<ul style="list-style-type: none"> For example, IEERB Teachers' Organization 		
	Composition of the bargaining unit (positions included/excluded)	<ul style="list-style-type: none"> The bargaining unit composition is generally found under the contract provision entitled "Recognition Clause." The bargaining unit composition generally entails a clause stating that the unit is all school employees minus the excluded positions (e.g., all certificated employees except for the superintendent, chief academic officer, principals, etc.). The provision must be the same as the prior year unless a change has been approved by IEERB. The Compliance Officer will use the prior CBA submitted to IEERB to determine whether any changes have occurred. Practitioner's Tip: Changes to the bargaining unit, such as unit amendment or clarification, must go through the notice process and be sent to IEERB. For more information, see I.C. Ch. 20-29-5 and 560 I.A.C. 2-2. 		
CBA term	Not past state budget biennium	State budget biennium falls on June 30 of odd-numbered years.		
Ratification section	Signed by agent of each party on or after August 1.	<ul style="list-style-type: none"> Not every member of the bargaining team or the board must sign, just one agent. Practitioner's Tip: Have CBA signed at the time of ratification. Unsigned CBAs will be returned or found to be non-compliant. 		

REQUIRED SUBJECTS			If no, automatically not compliant	
Salary	Salary range, including the starting amount/calculation for salaries	<ul style="list-style-type: none"> Salary ranges include the lowest and highest base salaries for full-time bargaining unit members, not including any increases for that year. The salary range contains only the base salary for direct teaching functions – it does not include payments for ancillary, co-curricular, or extra-curricular duties or activities. Examples: (a) \$35,000 - \$80,000; (b) \$30,000 (with \$5,000 that can be added at superintendent’s discretion) - \$80,000 The CBA may, but is not required to, include additional ranges, such as ranges for individual unit members or categories of unit members, and/or include some increases for the year. 		
	Compensation plan (unless statement providing that no increases or in transition year)	<ul style="list-style-type: none"> A compensation plan is the local plan under which salary increases or increments will be determined pursuant to I.C. § 20-28-9-1.5(b). Practitioner’s Tip: Across the board raises do not comprise a compliant compensation plan. If the parties have agreed to no increases, parties do not need to submit a compensation plan. A compensation plan may be included, but will not be reviewed for compliance. A statement indicating that no increases are to be given must be included in the CBA. Transition year contracts are the first year of a contract under the 2011 changes to collective bargaining. Although recommended, parties to a transition year contract do not have to include a compensation plan or follow the compensation plan restrictions. However, parties who have previously used an evaluation plan compliant with I.C. Ch. 20-28-11.5 may not provide 		

		increases for teacher rated ineffective or needs improvement on the most recent evaluation. A statement explaining that the parties are in a transition year must be included to take advantage of the flexibility of the transition year. Compliance officers will review the parties' bargaining history to ensure the parties are in a transition year.		
	Compensation plan clearly defines eligibility	<ul style="list-style-type: none"> Teachers who received ineffective or needs improvement ratings on the most recent evaluation may not receive an increase. All other eligibility criteria should be listed (e.g., not newly hired teachers). Practitioner's Note: Teachers may not receive any increases for the year after they receive an ineffective/needs improvement rating. Therefore, compensation plans that provide teachers extra or "catch up" compensation for prior ineffective/needs improvement ratings are not allowed. 		
	Compensation plan uses 2-4 statutory factors (evaluation, education and experience, leadership, academic needs)	<ul style="list-style-type: none"> Parties may not use factors not listed (e.g., attendance). Parties must use at least two of the listed factors. Remember that education and experience together comprise one factor. 		
	Education and experience does not exceed more than 33% of increase calculation	<ul style="list-style-type: none"> The calculation is not based on what individual teachers actually get, but what they could get. For example, a compensation plan that provides for 25% for education and experience, 50% for leadership, and 25% for evaluation is permissible even though a teacher does not get the leadership money (thereby making 50% of individual increase based on education and experience and 50% on evaluation). However, a compensation plan that provides that all eligible 		

		<p>teachers get a 2% raise based on education and experience and evaluation is not permissible.</p> <ul style="list-style-type: none"> • 33 1/3% exceeds 33% (no rounding). 		
	Compensation plan includes definitions of the factors	<ul style="list-style-type: none"> • Parties have flexibility in definitions; however, the parties cannot define some factors to incorporate education and experience such that the 33% threshold is violated (e.g., leadership or academic needs cannot be defined as experience or education if the two factors together would exceed 33%). 		
	Compensation plan either includes a defined amount, or calculation of, increases or provides for redistribution of increases for those rated ineffective or needs improvement	<ul style="list-style-type: none"> • The statute requires that compensation plans redistribute money for increases that otherwise would have been given to teachers rated ineffective or needs improvement. • Compensation plans that include a pot of money, either defined (e.g., \$300,000) or a calculation (80% of new money into the general fund), provide for redistribution and therefore do not need a redistribution provision. • Compensation plans that provide for set amounts per teacher, factor, or point (e.g., each effective evaluation gets \$100 or \$100 per point) must have a provision that provides for a redistribution of the money that would have gone to teachers rated ineffective or needs improvement (i.e., school employers must budget for all teachers to be rated effective or highly effective). An example of the provision: Any money that would have been given to teachers who were rated ineffective or needs improvement will be equally distributed amongst all teachers receiving an effective or highly effective evaluation rating. • Explain whether increases in form of stipend or base. 		
	Other permissible salary items (e.g., wage payment agreements, salary	<ul style="list-style-type: none"> • Wage payment agreements are agreements pursuant to I.C. § 20-26-5-32.2 between the parties regarding the frequency of salary payments where the frequency will 		

	for supplemental contracts, dues deductions, payment for extended contracts, general payroll deductions) (not required)	<p>be different than that required under the Indiana wage payment laws.</p> <ul style="list-style-type: none"> • Supplemental service contracts are often for summer school. • Extended contracts are often for the non-teaching employees in the bargaining unit to work days in excess of the teaching work days. • Performance awards, and increases relating to those awards, pursuant to I.C. § 20-43-10-3 may not be bargained, and therefore it is recommended that they not be included in the CBA. If included in the CBA, there must be a corresponding statement providing that the payments were not bargained, or it will be considered noncompliant. • Payments for master's degrees pursuant to I.C. § 20-28-9-1.5(a) may not be bargained, and therefore it is recommended that they not be included in the CBA. If included in the CBA, there must be a corresponding statement providing that the payments were not bargained, or it will be considered noncompliant. 		
Wages	Payment for ancillary, co-curricular, and extra-curricular duties/activities	<ul style="list-style-type: none"> • Example: Head boys' basketball coach receives \$5,000 stipend. • Wage payments may be in the form of a set amount per activity or duty, or an hourly wage. 		
Salary and wage related fringe benefits	Salary and wage related fringe benefits	<ul style="list-style-type: none"> • Examples aside from those listed in the statute include unpaid leave, wellness plans, Section 125 plans, travel allowance, and severance pay. • Practitioner's Note: Salary and wage related fringe benefits are defined as a benefit, other than direct salary or compensation, received by the school employee from the school employer, including, but not limited to, accident, sickness, health, dental, vision, 		

		life, disability, retirement benefits, and paid time off as permitted to be bargained under I.C. § 20-28-9-11.		
PERMISSIBLE PROVISIONS				
	Grievance procedure (may contain binding arbitration only within scope of bargaining)	<ul style="list-style-type: none"> • Binding arbitration involves a decision made by a third party that is binding on both parties. 		
	Definitions	<ul style="list-style-type: none"> • For example: “Days” as used in this contract shall mean calendar days unless otherwise specified. • Other commonly defined terms include board, school corporation, superintendent, agreement, school year, and association/federation. 		
	Contract interpretation provisions	<ul style="list-style-type: none"> • Examples of common contract interpretation clauses include: <ul style="list-style-type: none"> ○ supremacy clause ○ savings clause ○ severability clause ○ scope of agreement 		
	Non-subject provisions that are not impermissible	<ul style="list-style-type: none"> • Common examples include provisions on teacher rights. • Practitioner’s Note: Teacher rights provisions cannot conflict with school employer rights, such as rights set forth in I.C. § 20-29-4-2. 		
IMPERMISSIBLE ITEMS			If yes, not compliant.	
	MOUs outside bargaining timeline not pursuant to a Board order or permitted by the Compliance Officer	<ul style="list-style-type: none"> • An MOU is any agreement ratified by the school employer and the exclusive representative, subsequent to a ratified collective bargaining agreement, that changes or modifies the collective bargaining agreement. 		

		<ul style="list-style-type: none"> Any MOU ratified by the parties outside the bargaining timelines, except to the extent permitted by the exceptions below, is noncompliant. The following may constitute an exception to a finding of noncompliance for bargaining outside the allowable bargaining timelines: <ul style="list-style-type: none"> (1) Newly discovered information or an unanticipated event that was not known or available at the time the parties ratified the original CBA. This exception will be decided on a case-by-case basis by the compliance officer. (2) Non-rule policy guidance issued by the board addressing unanticipated circumstances impacting multiple bargaining parties and allowing parties to bargain and ratify a limited MOU outside of the bargaining timelines. 		
	Any subject other than salary, wages, or salary and wage related fringe benefits	<ul style="list-style-type: none"> Statutory examples of impermissible subjects: <ul style="list-style-type: none"> Curriculum development and revisions Selection of curricular materials Teaching methods Hiring, evaluation, promotion, demotion, transfer, assignment, and retention of certificated employees Student discipline Expulsion or supervision of students Pupil/teacher ratio Class size or budget appropriations Safety issues for student and employees in the workplace Hours Performance grants pursuant to I.C. § 20-43-10-3 Individual performance stipends to teachers pursuant to I.C. § 20-43-10-3 Additions to base salary based on performance stipends pursuant to I.C. § 20-43-10-3 		

	Provisions that conflict with any right or benefit established by federal or state law			
	Provisions that conflict with school employee rights as set forth in I.C. §§ 20-29-4-1, 20-29-4-2			
	Provisions that conflict with school employer rights set forth in I.C. § 20-29-4-3			
	Provisions that conflict with restructuring options available as described in I.C. § 20-29-6-2(a)(4)			
	Provisions that conflict with the school employer's ability to work with an education entity as provided in I.C. § 20-29-6-2(a)(5)			
	Other (detail must be provided)			